TENNESSEE GENERAL ASSEMBLY FISCAL REVIEW COMMITTEE



FISCAL NOTE

HB 2303 - SB 2175

February 5, 2016

SUMMARY OF BILL: Establishes the *Commercial Dog Breeder Registration Act* (Act) for the purpose of licensing and regulating commercial dog breeders. Defines a "commercial dog breeder" as any person who possesses or maintains, under the person's immediate control, 16 or more fertile female dogs in this state for the primary purpose of breeding or selling or a person who sells 20 or more dogs within a calendar year. Exempts from determination of the tally of total fertile female dogs, such dogs which are possessed or maintained, under the person's immediate control primarily for herding livestock or other agricultural uses, hunting, tracking, chasing, pointing, flushing, retrieving game, competing in field trials, agility events, confirmation events, obedience trials, tracking trials, hunting tests, or any other similar dog sport as designated in rule by the Commissioner.

Requires the Commissioner of the Department of Commerce and Insurance to establish an application for registration, levy a registration fee and other additional fees which offset the Department's administrative costs and to promulgate rules to effectuate the purpose of this Act. Authorizes the Commissioner to investigate and make on-site inspection of any breeder's facilities and charge the breeder per inspection. Establishes that nothing shall grant the Commissioner of the Department of Commerce and Insurance the authority to confiscate dogs in the possession of a commercial dog breeder. Upon reasonable belief that an animal offense has taken place on the property of a commercial dog breeder, such person may notify the appropriate law enforcement agency which shall authorize a Peace Officer Standard and Training Commission (POST)-certified or POST-compliant officer to confiscate dogs at such property. The officer may enlist a veterinarian or other personnel for the confiscation and treatment of dogs.

Requires breeders to keep records, provide adequate veterinary care, and cooperate with any on-site inspection. Prohibits certain persons convicted of any violation of this Act from registering as a commercial dog breeder. Prohibits any person who has had a registration revoked from applying for registration for a period of five years from the date of revocation, unless the reason for revocation is a conviction of animal cruelty charges or domestic assault, in which case the person shall be prohibited from applying for registration for a period of 10 years from the date of revocation or completion of any sentence or court ordered probation, whichever is later.

Establishes a Class A misdemeanor offense for any person to engage in the business of commercial dog breeding without registering under this Act. Any other violation of this Act is a Class C misdemeanor offense. Establishes that it is an unfair or deceptive practice under the *Consumer Protection Act of 1977* for any commercial breeder to: sell, offer to sale, or advertise any dog without valid registration or if the breeder's registration has been suspended or

revoked; sell a puppy younger than six weeks old; misrepresent the physical condition or medical history of any dog at the time of the dog's sale, trade, delivery, or other method of transfer. Upon reasonable belief that a commercial dog breeder is selling dogs without registration, the Attorney General and Reporter's Office is authorized to issue a prefiling request for consumer protection information, pursuant to Tenn. Code Ann. § 47-18-106. Punishment for any such violation is a civil penalty of up to \$1,000 per violation. This Act shall take effect January 1, 2017.

ESTIMATED FISCAL IMPACT:

Increase State Revenue - \$60,900/FY16-17 and Subsequent Years/
Division of Regulatory Boards

Increase State Expenditures - \$35,000/FY16-17/Division of Regulatory Boards \$60,700/FY17-18 and Subsequent Years/Division of Regulatory Boards

Assumptions:

- According to the Department of Commerce and Insurance, it will need an additional regulatory board Administrative Assistant 3 position to handle the registration and renewal process.
- A rulemaking hearing will be necessary to promulgate rules.
- One-time expenditures of \$4,700 [office furniture \$2,000 + rulemaking hearing \$1,500 (court reporter \$500 + transcript copies \$1,000) + computer \$1,200].
- Recurring increase in state expenditures of \$60,652 (salary \$42,800 + benefits \$16,252 + phone \$1,000 + supplies \$600).
- An effective date of January 1, 2017.
- An increase in state expenditures in FY16-17 of \$35,026 [(\$60,652 x 50.0%) + \$4,700].
- A recurring increase in state expenditures in FY17-18 and subsequent years of \$60,652.
- This legislation requires the Department of Commerce and Insurance to assess registration fees and other additional fees to offset the costs in administering this newly established regulatory program.
- Licenses will be biennial, requiring renewal registration every two years from initial registration.
- Based on information provided by the Department, approximately 84 individuals will seek and become registered with the Department as commercial dog breeders. This number is assumed to remain constant over any two-year licensing period as some would be expected to not renew their license, while other market entrants who desire to engage in the commercial dog breeding business will become licensed. The average number of licensees and renewals in any given year is estimated to be 42 (84 / 2-year period).
- A biennial registration and renewal fee of \$1,450 will be required for the program to become self-funding.

- A recurring increase in revenue beginning in FY16-17 of \$60,900 (42 breeders x \$1,450).
- There will not be a sufficient number of prosecutions for state or local government to experience any significant increase in revenue or expenditures.
- No significant increase in state or local expenditures for POST-certified officers
 confiscating dogs because it is anticipated that in any such instance an officer will enlist
 the help of a private veterinarian, pursuant to the provision of the bill, to assist in any
 such confiscation, whereby the private veterinarian would accept any responsibility for
 the animal.
- Pursuant to Tenn. Code Ann. § 4-29-121, all regulatory boards are required to be self-supporting over any two year period. The Commercial Dog Breeder Program will be placed under the Division of Regulatory Boards; therefore, this Program will be required to collect sufficient revenue to offset expenditures incurred by the Program in regulating commercial dog breeding.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

Krista M. Lee, Executive Director

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